

CITY1722.DSS

Chairperson Blaser called to order the January 25, 2017, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in the City Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Celsi, Cunningham.....Present
Christiansen, Pfannkuch.....Absent

Item 1 – Consent Agenda

Item 1a – Minutes of December 28, 2016

Moved by Board Member Celsi, seconded by Board Member Cunningham, to defer taking action on the minutes until there was a quorum of those who had attended the December 28, 2016 meeting.

Vote: Blaser, Celsi, Cunningham.....Yes
Christiansen, Pfannkuch.....Absent

Motion carried.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a – Furry Friends Adoption Center, NE corner of S. 41st Street and Mills Civic Parkway – Land use review to allow SIC 0752-02 Animal Specialty Services, Except Veterinary, Highgates Plaza, LLC – PC-003322-2016

Board Members were provided additional letters from residents at the dais which were received after the staff report was written.

Chairperson Blaser opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on January 13, 2017, in the Des Moines Register.

Chairperson Blaser then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Cunningham, seconded by Board Member Celsi, the Board of Adjustment accepts and makes a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Celsi, Cunningham.....Yes
Christiansen, Pfannkuch.....Absent

Motion carried.

Britt Gagne, Furry Friends Executive Director, 1211 Grand Avenue, West Des Moines, participated in the meeting by conference call.

Sadie Scott-Hainchek, Furry Friends Communications and Development Director, 208 Terrace Road, Des

Moines, gave a formal presentation in support of the construction of an animal adoption center with outdoor courtyards (see attached). A map of the proposed location was also provided, along with a letter of support from West Des Moines citizen Tammy Cline who has been involved with many municipal boards. Ms. Scott-Hainchek elaborated on how Furry Friends would mitigate the concerns of the neighbors regarding waste, noise, traffic, safety, and property values.

Ms. Scott-Hainchek summarized by requesting approval of a Permitted Conditional Use Permit to allow the operation of an animal shelter, including outdoor courtyards, so that dogs could relieve themselves, as well as interact with people and other dogs at the property located at S. 35th Street and Mills Civic Parkway. If approved, Furry Friends would work with City staff to create a Site Plan for submittal to the Board of Adjustment for approval based on the requirements as outlined in a previous pre-application meeting.

Chair Blaser made the applicant aware that with only three Board Members in attendance tonight, three votes would be needed to pass this request. One option would be to withdraw or defer the application until there were more members present. Ms. Scott-Hainchek acknowledged the situation, but did not request to defer.

Chair Blaser inquired as to the proposed location for the facility. Ms. Scott-Hainchek pointed out on a location map where the building would be located in relationship to the surrounding developments, the power station, and the police station.

Chair Blaser asked if Furry Friends was in agreement with recommended Conditions of Approval as outlined in the staff report. Ms. Gagne responded yes.

Chair Blaser asked the hours the courtyard would be utilized or would it be a 24-hour process. Ms. Gagne responded that the facility was not staffed overnight, and the dogs would only be in the courtyard when fully supervised. The courtyard would only be utilized during the hours the facility was open. The current facility on Grand Avenue closes at 8 pm.

Chair Blaser asked if there would be any objection to modifying the Conditions of Approval to state that the dogs would only be out during the hours deemed reasonable for operation. Ms. Gagne stated that it would depend on the wording if it would take into consideration an emergency situation, i.e., a volunteer may call in sick and a dog may have to be let out later than the designated timeframe. Ms. Gagne continued that staff is very conscientious and always careful to adhere to established rules. The intent would be to adhere to normal operation hours.

Board Member Cunningham asked if the building was being constructed in stages. Ms. Scott-Hainchek stated that there would be two stages. The courtyard would always be enclosed with privacy fencing around the area which would be made of a white plastic. Ms. Gagne interjected that the building would be in front of the courtyard so that fencing would not be facing out to Mills Civic Parkway. Basically, the first phase of the building would be in the shape of an "L" and would block the view, as well as serving as an additional sound buffer from properties to the west. She noted that all those who have expressed concern are west of South 41st Street so that would definitely serve as a noise buffer. Eventually, the plan for a second phase is to enclose the area along the north end of property to form a "U" which would act as a fully enclosed fortress with the exception of the fencing facing the power station to the east.

Chair Blaser asked if there was anyone from the audience that wished to comment on this request.

JB Conlin, Conlin Properties, 319 7th Street, Des Moines, owner and manager of the apartment complex to the north, commented that his family was a big animal advocate and knows there is a need for this facility, but expressed opposition to this request as there are noise concerns. He did not feel that a fence would mitigate the noise as one can hear dogs barking a mile away on a flat piece of ground. His concern was with apartment tenants that use their decks that face this area. Mr. Conlin does not think smell would be an issue, but the

distance from his apartment buildings to the proposed building seemed close. If there is more turnover of apartments because folks do not want to live next to an animal facility because of noise, this could impact the apartments and would affect net operating income. He mentioned an extra piece of land to the east owned by MidAmerican Energy which could be considered or investigated for this facility. Mr. Conlin continued that the facility is not supervised at night; thus, barking could take place during this time within the facility. Also, he would like to know the max capacity of the facility and if there was a cap on the number of animals allowed.

Board Member Cunningham wanted to understand the inability to attract tenants because of a noise concern when living by a football stadium which can be heard from miles away when there is a game or a band tournament. Mr. Conlin stated that he understands the stadium noise, but it does not bother him as this is an intermittent use which is “few and far between.”

Chair Blaser provided that the applicant is going to build a berm between the apartment property and the facility. Also, evergreen trees will be planted in an attempt to address tenant concerns with noise. Mr. Conlin expressed that this would be very helpful, as well as having an engineer look at the issue to mitigate noise fears with having this facility in the area. Chair Blaser encouraged Mr. Conlin to be involved as this was only the first step of this process, and if this item passed tonight, there would be opportunity for comment during the Site Plan review process.

Board Member Cunningham inquired what would be the dog capacity in the facility.

Ms. Gagne responded that there are twenty runs, but there could be a situation where two small dogs would be in one run at the same time. Full capacity would be no more than thirty dogs, and that this facility functions only for homeless animals.

Mark Stelmacher, 255 South 41st Street, in the Vineyard Ridge Development, stated that the Furry Friends group has an honorable mission, but that he and his wife do not think that this is the best location for this facility due to noise factors. He acknowledged that Valley Stadium does create noise, but noted that it is not all day, seven days a week. Even though there are mitigation factors with waste products, there are still odor concerns.

Mr. Stelmacher asked if dogs were walked off the premises. Ms. Scott-Haincheck stated that dogs are walked around the neighborhood. Mr. Stelmacher commented that he has observed that a vast amount of owners pick up the pet waste, but 5-10% do not pick up after their pets; thus, he was concerned with dog waste. Also, Furry Friends does not pay taxes, and the City of West Des Moines is losing out on property tax revenue. Mr. Stelmacher stated that somewhere in the City there has to be better locations for this facility that would not be located adjacent to residential living areas. He continued that a potential of thirty dogs in a facility would impact those that enjoy being outdoors and do not want to listen to dogs barking from 6 am to 8 pm at night. He applauded the use, the organization, and the volunteers, but reiterated that he did not think that this was the highest and best use for this property, and there are far better locations in West Des Moines, Clive, or Urbandale. He and his wife respectfully request that the Board of Adjustment deny this use permit.

Mike Schinzel, 255 S 41st Street, unit 101, concurred with Mr. Stelmacher’s comments. He and his wife believe that the Furry Friends mission was good, but this is a residential area. Property values that have been compared are not the same and are in different locations. Ms. Gagne informed the committee that the property two doors down from the existing Furry Friends was sold recently for \$169,000, an increase of 22% from the sale of the house in 2009. Mr. Schinzel responded that this was half the value of their townhomes, and he did not think this was a comparable value for what the townhomes sell for.

Mr. Schinzel provided that Ms. Gagne did come to his residence to discuss area home values. She indicated at that time that the Furry Friends location had increased in value. He continued that his main concerns were property value, noise, odor, and the liability for child safety as children will roam toward animals. Also, Mr.

Schinzel mentioned the environmental impact as there would be drainage toward the City Hall pond. He requested that the Board oppose this proposed location, and the applicant look elsewhere.

Chair Blaser reminded the group that repetitious testimony was not needed as concerns expressed previously are understood. He encouraged others who wished to speak to this application bring forward new information.

Dan Larson, 255 S 44th Street, Unit 152, stated that all his concerns have been mentioned, but he wanted to add that it appears that the location was targeted as it was located near City property. It does not seem that much effort was spent looking for other properties.

Randall Boyd, 1351 S 51st Street, stated that he has been a volunteer for Furry Friends for the last seven years. He continued that he does extensive dog walking and always picks up the waste, as well as trash in the neighborhood. He reiterated that waste is always picked up every day and disposed of properly. These dogs are not going to be out in the runs for long periods of time, but will only be intermittently in the runs at some time during the day and only during business hours. There may be, at the most, a group of five dogs for 15 minutes which is not an all-day event. From experience, Mr. Boyd stated that when he pulls into the existing Furry Friends parking lot, he cannot hear the dogs. Mr. Boyd felt that not paying property tax is alleviated by getting this animal service for free. He encouraged everyone to visit the current Furry Friends facility to determine if dogs can really be heard barking and if there was any odor.

Chair Blaser clarified that the Board of Adjustment does not have any influence nor take into consideration the property tax issue, but the Board is here to decide what uses are appropriate for the City.

Sherry Bricchetto, 1659 NW 102nd, Clive, indicated that she was a Furry Friends board member and a volunteer. She understood all the concerns expressed, but there are only twenty dog spaces in the building. These dogs go out to relieve themselves, as well as interact with other dogs and the volunteers for a short time. The dogs are walked throughout the neighborhood; but in general, it would be preferable to have bigger yards for the dogs so that they could be kept strictly in the compound behind the fence.

Mr. Larson returned to the podium and asked the primary reason for this location. Ms. Gagne stated that she has been looking at various properties in Clive and Urbandale, as well as West Des Moines, for over a year. There have been some great suggestions, but it is important to stay in the area where services are being provided. Also, part of the reason for choosing this property was the price. Furry Friends is not a well-funded organization. It is a small local organization made up of grass roots citizens who care about animals. This land is affordable because it has significant challenges, a power station nearby, and a pipeline that runs through the property. It was a great asset to find a piece of property close to the animal control officers that we talk to and work with daily. It is also in an area where there is a good population of volunteers and a doctor who lives nearby. The whole point is to save more animals and this would not happen if the property was tucked away somewhere and not accessible. After this year long process, it was determined that this was an appropriate property for the animal services to be provided.

Layton Stump, 255 S 41st Street, Unit 134, stated that he looked on the website today and noted that there were twenty people that wrote in that they were in favor of this proposal. In all due respect to all those in favor of this proposal, the construction is not across the street or even down the street from where the twenty folks live.

Deb Schinzel, 255 S 41st Street, Unit 101, concluded that it does not make sense to build on such a small piece of property with so many limitations since the Greater Des Moines area is projected to experience huge growth within the next five to ten years. At that time, there will be more need than ever for an organization like this one. A property needs to be identified that would allow for this extended growth. She suggested undeveloped land along 63rd Street in line with Grand Avenue, and that maybe a donor could be identified that would need a write off.

Sara Nygaard, 4910 Pleasant Street, stated that she has been a Furry Friends volunteer since 2012 and for the past three years she has dedicated her time to interacting with the dogs at this facility. When she walks dogs in the area, the neighborhood dogs are more distracting than the shelter dogs. Ms. Nygaard has never left waste and often picks up waste that has been left on the street. She encouraged anyone with concerns with the future site to stop by the current site and see that dogs are never left unattended, and those dogs who bark are taken inside immediately. Ms. Nygaard repeated that when she takes dogs on walks, the dogs in the neighborhood bark much more than those from the shelter. She expressed excitement regarding this proposed site as it is extremely accessible to the area trail system which would allow taking the dogs on extended walks and runs.

Chair Blaser then asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Planner Portz shared that this was a land use review and, if approved, the applicant would come back to the Board of Adjustment at a later date with the actual Site Plan to be reviewed. Mr. Portz went over the suggested conditions of approval. Most important the dogs would always be supervised, and that the courtyard area would be enclosed by a solid fence on the east and north with the intent to deter dogs from barking. Mr. Portz described the buffer which is a 30 ft area of landscaping on the north side, and that staff has also requested that the buffer be enhanced with extra evergreen trees. The applicant has been requested to provide information as to how the elimination of waste would be handled, i.e., how, how often, and when. Staff recommends approval of this project.

Chair Blaser stated that it seems the City has a significant interest in this area as there are many municipal City buildings located to the south and southeast of this proposal. He asked if the City had any concerns regarding the location of this facility. Planner Portz responded that there have been no concerns expressed, and that the project will go through Site Plan review at which time City departments will be given another opportunity for review.

Board Member Cunningham asked and was informed that this parcel is zoned Support Commercial. Planner Portz elaborated that Medium Density Residential is located to the north and northwest of the proposed project.

Chair Blaser stated that this was a good proposal and that the applicant did an excellent job of addressing concerns, as well as working with staff. There could be occasional barking, but the City has a noise ordinance in place, and if violated, the property would be subject to sanctions. Also, there is a nuisance statute in place, and if there would be a property devaluation issue, the neighbors would have rights no matter what this Board decides. Chair Blaser continued that he believes this proposal could be improved between now and when the Site Plan is brought forward, and that he would specifically like to see some of the night time hour issues addressed. He supported the proposal as presented.

Moved by Board Member Cunningham, seconded by Board Member Celsi, the Board of Adjustment adopt a resolution to approve the Permitted Conditional Use Permit to allow SIC 0752-02 Animal Specialty Services, Except Veterinary, subject to meeting all City Code requirements and the following:

1. This approval is to allow only the use of the property for an Animal Adoption Center, SIC 0752-02 Animal Specialty Services, Except Veterinary. A specific design for the site is not approved at this time. The design of the site and building design will be reviewed by City staff and the Board of Adjustment at a later date once all staff comments regarding the site plan submittal have been addressed by the applicant.
2. The applicant limiting outside activities to only that necessary for playtime and bathroom breaks and agreeing that the dogs shall not be outside unsupervised.
3. The building and site shall be designed such that the outdoor courtyard areas are located on the east and north sides of the building.

- 4. A 30' landscape buffer with a berm is required along the north property line of the subject property. The buffer shall be enhanced with a minimum of 50% evergreen trees to provide additional screening and buffering. The enhanced buffering shall be required and reviewed with the site plan review for the property.
- 5. The courtyard areas shall be enclosed with a 6' solid fence on the north and east sides to limit views into and out of the courtyards to reduce possible dog barking.
- 6. The applicant identifying a plan for animal waste elimination and providing a proposed maintenance schedule for the cleaning and removal of animal waste.

Vote: Blaser, Celsi, Cunningham Yes
 Christiansen, Pfannkuch Absent
 Motion carried.

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

There were no staff reports.

Item 6 – Adjournment

Chair Blaser asked for a motion to adjourn the meeting.

Moved by Board Member Celsi, seconded by Board Member Cunningham, the Board of Adjustment meeting adjourns.

Vote: Blaser, Celsi, Cunningham Yes
 Christiansen, Pfannkuch Absent
 Motion carried.

The meeting adjourned at 6:34 p.m.

Michael R. Blaser, Chairperson
 Board of Adjustment

Kimberly Taylor, Recording Secretary